

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BROADCAST MUSIC, INC., et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:11CV1481 TIA
)	
MWS, LLC d/b/a FIFTEEN, and)	
MARK D. WINFIELD, individually,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on Defendants/Judgment Debtors' Verified Objections and Motion to Quash Garnishment Interrogatories, Summons to Garnishee, Notice of Execution and Writ of Execution (ECF No. 55) and Plaintiffs/Judgment Creditors' Motion to Withdraw Writs of Execution Issued to the Precinct and Jim Edmonds' Space 15 (ECF No. 56). The parties consented to the jurisdiction of the undersigned pursuant to 28 U.S.C. § 636(c).

To the extent Defendants/Judgment Debtors object to the writ of execution and related papers served on The Precinct and Jim Edmonds' Space 15, this objection has been mooted by Plaintiffs/Judgment Creditors' Motion to Withdraw Writs of Execution Issued to the Precinct and Jim Edmonds' Space 15.

Judgment Debtors' argument for quashing the Writ of Execution issued on MWS, LLC is without merit. Judgment Debtors contend that the Judgment is "irregular or inconsistent" or "void and unenforceable." The Court's June 20, 2014 Judgment reads as follows:

IT IS HEREBY ORDERED that Plaintiffs are awarded \$35,000.00 in statutory damages (\$7,000.00 for each of the five infringements), for which Defendants MWS, LLC and Mark D. Winfield are jointly and severally liable.

IT IS FURTHER ORDERED that Plaintiffs are awarded attorneys fees in the amount of \$10,000.00, and costs of \$2,098.75, for a total award of \$12,098.75.

(ECF No. 45 at p. 7-8).

“Where a judgment is susceptible of two interpretations, it is the duty of the court to adopt the one which renders it more reasonable, effective and conclusive in the light of the facts and the law of the case.” Pen-Ken Gas & Oil Corp. v. Warfield Natural Gas Co., 137 F.2d 871, 885 (6th Cir. 1943). “The meaning of an ambiguous judgment or order ‘must be determined by what preceded it and what it was intended to execute.’” Hendrie v. Lowmaster, 152 F.2d 83, 85 (6th Cir. 1945) (quoting Union Pac. R.R. Co. v. Mason City & Fort Dodge R.R. Co., 222 U.S. 237, 247 (1911)). The Judgment set forth in two separate paragraphs awarded \$35,000.00 in statutory damages in the first paragraph and a total of \$12,098.75 in attorneys fees and costs in the second paragraph.(ECF No. 38 at p. 15). The undersigned discussed the award of statutory damages and the award of attorney fees and costs in the Memorandum and Order. In determining the amount of damages awarded for statutory damages, the Court found as follows:

Plaintiffs seek an award of \$35,000.00, an amount within the general trend of awarding damages of approximately three times the licensing fee. Considering the evidence, the Court concludes that this is a proper award of statutory damages on the record before it and is substantially less than three times the estimated license fees....

(ECF No. 45 at p. 6). In awarding attorneys fees and costs, the Court specifically noted how “Plaintiffs are entitled to an award of reasonable attorneys fees which the Court determines to be \$10,000.00 plus the full costs incurred in this action.” (ECF No. 45 at p. 7). The undersigned finds the Judgment entered is clear and unambiguous and must therefore be construed as written and the fact that Defendants/Judgment Debtors assert a contrary position with no legal support does not make the language ambiguous. Accordingly,

IT IS HEREBY ORDERED that Plaintiff/Judgment Creditors' Motion to Withdraw Writs of Execution Issued to the Precinct and Jim Edmonds' Space 15 (ECF No. 56) is **Granted**.

IT IS FURTHER ORDERED that Defendants/Judgment Debtors' Verified Objections and Motion to Quash Garnishment Interrogatories, Summons to Garnishee, Notice of Execution and Writ of Execution (ECF No. 55) is **Denied as Moot** as directed to the Precinct and Jim Edmonds' Space 15 and **Overruled** as directed to MWS, LLC.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 23rd day of January, 2015.